

REMARKS

Claims 1-5, 7-12, 14-15, 18-22, 24-26, and 28-29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,741,168 to Webb et al. (hereinafter "Webb"). Claims 6, 13, and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Webb in view of U.S. Patent Application No. 2004/0006699 A1 of Von Mueller et al. (hereinafter "Von Mueller"). Claims 16-17, 23, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Webb in view of U.S. Patent No. 6,052,068 to Price R-W et al. (hereinafter "Price").

Claims 1, 11, 15, 22, and 30 are amended to more particularly point out and distinctly claim the subject matter of the claimed invention. The amendments are fully supported by the specification. Claims 4-6, 12-14, 20, 23, 26, and 27 are canceled.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references.

Response to rejections of claims under 35 U.S.C. § 102 and claims 6, 13, and 27 under 35 U.S.C. 103(a)

Claims 1-5, 7-12, 14-15, 18-22, 24-26, and 28-29 stand rejected under 35 U.S.C. § 102 as being anticipated by Webb. Applicants respectfully traverse this rejection along with the rejection of claim 6, 13, and 27 under 35 U.S.C. 103(a) as being unpatentable over Webb in view of Von Mueller as claims 1, 11, 15, 22, and 30 have been amended with the limitations of claims

6, 13, and 27. Claims 4-6, 12-14, 20, 23, 26, and 27 are canceled.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). For a *prima facie* case of anticipation, each and every element of the claimed invention must be identically disclosed in a single prior art reference; and those elements must be arranged or connected together in a single reference in the same way as specified in the patent claim. *Lindemenn Maschinenfabrik GmbH vs. American Hoist and Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984).

With regards to claims 1, 11, 15, and 30, the claims have been amended with the limitations of claims 4-6. See also claims 12-14, 20, 26, and 27. The claims as amended include the limitations "verify that the respondent identification device is responding to the collision indication," and "verify the identity of an authorized police collection device..." Claim 1. See also claims 11, 15, and 30. The amendments are well supported by the claims and the specification. Specifically, the limitation of "...an authorized police collection device..." is supported by the specification, Paragraph 18. The limitations prevent the identification device of the embodiment of the present invention from sending the vehicle identifier to another identification device of a vehicle not involved in a collision or to a collection device not possessed by the police.

In contrast, Webb does not teach verifying that the respondent identification device is responding to the collision indication. Instead, Webb teaches that the nonvolatile memory may only be written to by preselected devices. Webb, col. 3, lines 49-52. Webb further teaches away

from verifying that the respondent identification device is responding to the collision indication by stating "...that collision information portion 206 may be read via Wireless communications core 201 or other means." Webb, col. 3, lines 52-54. Thus Webb does not disclose verifying that the respondent identification device is responding to the collision indication. Applicants therefore assert that claims 1, 11, 15, and 30 are allowable.

With regards to claims 1, 11, 15, and 30 as amended with the limitations of claim 6 (and 13 and 27), it is well settled that the PTO has the burden to establish a *prima facie* case of obviousness. *In re Glaug*, 2002 U.S. App. Lexis 4246, *4 (Fed. Cir. March 15, 2002); MPEP §2142. "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." MPEP §2143.03 (emphasis added). The Federal Circuit has held that "the 'subject matter' that must have been obvious to deny patentability under §103 is the entirety of the claimed invention," *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1576 (Fed. Cir. 1987). Furthermore, even if all the claim limitations are taught or suggested, there must be some suggestion or motivation to combine reference teachings. See MPEP §2142. Applicant respectfully asserts that a *prima facie* case of obviousness has not been made because not all the elements recited in the claims are taught or suggested by the prior art and there is no teaching or suggestion in the art to produce the claimed invention.

The legal and PTO framework for determining claim term meaning is clear. First, "[c]laims are not to be read in a vacuum, and limitations therein are to be interpreted in light of the specification in giving them their 'broadest reasonable interpretation'." *In re Marosi*, 710 F.2d 799, 802 218 USPQ 289 292 (Fed. Cir. 1983). Second, "[t]he broadest reasonable

interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999). MPEP §2111. And third, “[t]he words of a claim must be given their “plain meaning” unless they are defined in the specification. “[P]lain meaning” refers to the meaning given to the term by those of ordinary skill in the art” MPEP §2111.01. Therefore, the claim term fitness value is to be interpreted in light of the specification and consistent with an interpretation those of skill in the art would give the term. Furthermore, where a term is defined in the specification that definition should control the interpretation.

Webb does not disclose verifying the identity of an authorized police collection device as claimed by the embodiment of the present invention in claims 1, 11, 15, and 30 as amended. In addition, Von Mueller also does not teach verifying the identity of an authorized police collection device. Instead, Von Mueller teaches accessing data using an authenticated User ID. Von Mueller, paragraph 45. The limitations of claims 1, 11, 15, and 30 as amended are distinguished from Von Mueller by specifying “an authorized police collection device” while Von Mueller does not teach an authorized police collection device. In addition, the embodiment of the present invention is further distinguished by claiming the identification device or providing entity verifying the identity of the receiving entity while Von Mueller teaches the receiving entity providing verification.

In addition, there is no suggestion in either Webb or Von Mueller to combine the accessing data using the authenticated User ID of Von Mueller with the limitations of Webb. Webb is directed to communicating collision information while Von Mueller is directed to

accessing secure data. The scope and content of Von Mueller is significantly different from the scope and content of Webb such that absent a suggestion to combine, one skilled in the art would not combine the references. Absent such a suggestion and each limitation of claims 1, 11, 15, and 30, Applicants assert that claims 1, 11, 15, and 30 are allowable.

With regards to claim 22, the claim has been amended with the limitations of claims 4, 26, and 27 as discussed above. Applicants therefore assert that claim 22 is allowable. In addition, claim 22 has been amended with the limitations of claim 23. Therefore, the Applicants also traverse the rejection of claim 23 under 35 U.S.C. §103(a) as being unpatentable over Webb in view of Price.

Claim 22 as amended includes the limitations "querying a vehicle data system for vehicle identification information;" Claim 22 as amended. The amendment is fully supported by the claims and the specification. Claims 23 and paragraph 36.

In contrast, Webb does not teach querying a vehicle data system while Price discloses interrogating an identification tag instead of querying a vehicle data system. Thus neither Webb nor Price teach the limitation of "querying a vehicle data system..." Because neither Webb nor Price disclose all of the elements of claim 22, Applicants assert that claim 22 is allowable. Applicants have not specifically traversed the rejection of 2-3, 7-10, 18-19, 21, 24-25, and 28-29, under 35 U.S.C. §102(e), but believe those claims to be allowable for depending from allowable claims. See, *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Response to rejections of claims under 35 U.S.C. § 103(a)

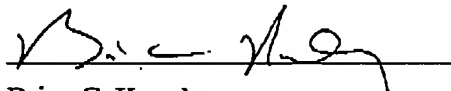
Claims 16-17, 23 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable

over Webb in view of Price. Applicant respectfully traverses these rejections.

Claim 23 is canceled. With regards to claims 16 and 17, Applicants assert that the claims are allowable as depending from the allowable claim 15 as discussed above. In addition, with regards to claims 16, 17, and 30, Applicants assert that Price teaches interrogating an identification tag rather than querying a vehicle data system. Therefore, because Webb and Price do not teach all of the elements of claims 16, 17, and 30, Applicants assert that claim 30 is allowable.

As a result of the presented remarks, Applicants assert that independent claims 1, 11, 15, 22 and 30 and dependent claims 2, 3, 7-10, 16-18, 21, 24, 25, 28, and 29 are in condition for prompt allowance. Should additional information be required regarding the traversal of the rejections of the dependent claims enumerated above, Examiner is respectfully asked to notify Applicants of such need. If any impediments to the prompt allowance of the claims can be resolved by a telephone conversation, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,



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